

**UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JERRY REYNOLDS,

Plaintiff,

v.

HUNGRY HOWIE'S DISTRIBUTING,  
INC.,

Defendant.

Case No.:  
Honorable  
Magistrate

Removed From:  
Oakland County Circuit Court  
Case No.: 2017-160028-CD  
Hon. Leo Bowman

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**NOTICE OF REMOVAL FROM STATE COURT**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, the above-captioned action, which is currently pending in the Circuit Court for the County of Oakland, in the State of Michigan, is hereby removed by Defendant Hungry Howie's Distributing, Inc., a Michigan corporation, to the United States District Court for the Eastern District of Michigan, Southern Division, by the filing of this Notice of Removal. As grounds for removal, Hungry Howie's states as follows:

1. On or about July 28, 2017, Plaintiff, Jerry Reynolds, filed suit in the Oakland County Circuit Court, State of Michigan, in a case entitled *Jerry Reynolds v. Hungry Howies Distributing, Inc.*, Case No. 2017-160028-CD ("the State Court Action").

2. Pursuant to 28 U.S.C. § 1446(a), a complete copy of all the process and pleadings received by Defendant in the State Court Action are attached hereto as **Exhibit 1**.

3. Defendant was served with process on October 26, 2017.

4. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely because it has been filed within thirty (30) days after Defendant's receipt of the Summons and Complaint.

5. This Court is the District and Division "embracing the place where [the State Court] action is pending." 28 U.S.C. § 1441(a). The Circuit Court for the County of Oakland is located in the Southern Division of the Eastern District of Michigan. 28 U.S.C. § 102(a)(1).

### **FEDERAL QUESTION JURISDICTION EXISTS**

6. This action is removable to this Court under 28 U.S.C. § 1441(a) because it is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1331.

7. This Court has original federal question jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 because Plaintiff's Complaint asserts a cause of action for alleged violations of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.* These allegations are sufficient to confer federal question jurisdiction. *See Exhibit 1*, Compl., Count II.

8. Therefore, this Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 because Plaintiff's Complaint is founded upon claims or rights arising under the laws of the United States.

9. This Court may exercise supplemental jurisdiction over Plaintiff's additional state-law claim under the Michigan Persons with Disabilities Civil Rights Act ("PDCRA"), M.C.L. § 37.1201 *et seq.*, pursuant to 28 U.S.C. § 1367. Plaintiff's state-law claim is so related to the federal claim that they form part of the same "case or controversy" under Article III of the United States Constitution. Furthermore, Plaintiff's PDCRA claim cannot be resolved until there is a resolution of the federal cause of action.

10. A Notice of Filing of Removal and a copy of this Notice of Removal from State Court will be filed with the Oakland County Circuit Court, State of Michigan, as required by 28 U.S.C. § 1446(d). *See Exhibit 2.* Copies of the same will be served upon all counsel of record upon the filing of this Notice.

WHEREFORE, Defendant hereby removes the State Court Action from the Oakland County Circuit Court, State of Michigan, to this Honorable Court, and request that this Court take jurisdiction of this civil action to the exclusion of any further proceedings in the State Court.

Respectfully Submitted,

MADDIN HAUSER ROTH & HELLER P.C.

By: /s/ Richard M. Mitchell

Richard M. Mitchell (P45257)  
28400 Northwestern Hwy, 2nd Floor  
Southfield MI 48034  
(248) 827-1875 / (248) 359-6175 (fax)  
Attorneys for Defendant  
[rmitchell@maddinhauser.com](mailto:rmitchell@maddinhauser.com)

Dated: November 22, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22nd day of November, 2017, I electronically filed the Notice of Removal from State Court with the Clerk of the Court for the United States District Court – Eastern District using the ECF system.

I further certify that in addition, I served the Notice of Removal from State Court by first class mail to:

Matthew Broderick  
Attorney for Plaintiff  
30701 Barrington Street, Suite 100  
Madison Heights, Michigan 48071  
(248) 588-1882 / Fax: (248) 588-1887

/s/ Richard M. Mitchell (P45257)  
Richard M. Mitchell